

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON FISH AND GAME**

**Call to Order:** By **CHAIRMAN KEN MESAROS**, on February 11, 1999 at 3:10 P.M., in Room 325 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Ken Mesaros, Chairman (R)  
Sen. Mike Taylor, Vice Chairman (R)  
Sen. Tom A. Beck (R)  
Sen. Al Bishop (R)  
Sen. William Crismore (R)  
Sen. Steve Doherty (D)  
Sen. Pete Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Eve Franklin (D)  
Sen. Bea McCarthy (D)  
Sen. Chuck Swysgood (R)  
Sen. Jack Wells (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Leanne Kurtz, Legislative Branch  
Adrienne Pillatzke, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SD 338, 2/11/1999; SD 339,  
2/11/1999; SD 340, 2/11/1999;  
SD 341, 2/11/1999; SD 334,  
2/11/1999; SD 335, 2/11/1999;  
SD 336, 2/11/1999; SD 337,  
2/11/1999

Executive Action: None

**CHAIRMAN KEN MESAROS** announced the committee will first hear SB 338 and take under consideration the CI 75 implications, SB 339,

SB 340 and SB 341. SB 334 will be heard second and will take under consideration SB 335, SB 336, and SB 337.

**VICE CHAIRMAN MIKE TAYLOR** chaired the committee.

**HEARING ON SB 338, SB 339, SB 340, SB 341**

**Sponsor:** **SENATOR KEN MESAROS, SD 25, CASCADE**

**Proponents:** **Steve Roth, PL/PW Council**  
**Verle Rademacher, PL/PW Council**  
**Darlyne Dascher, PL/PW Council**  
**Dave Cole, PL/PW Council**  
**Pat Graham, Fish Wildlife and Parks**  
**Jean Johnson, MT Outfitters and Guides Association**  
**John Blomquist, MT Stockgrowers' Association**  
**David Dittloff, MT Wildlife Federation**

**Opponents:** **Page Dringman, Attorney, Big Timber**  
**Tony Carroccia, Citizen**

**Opening Statement by Sponsor:**

**SENATOR KEN MESAROS, SD 25, CASCADE** stated the main bills being heard today are from the recommendations from the Private Lands Public Wildlife Council.

He recapped the history behind this legislation. The Private Lands Public Wildlife Council worked by consensus and sought input from members of the public and interest groups. They developed and submitted recommendation to Governor Racicot in 1999. He listed what the recommendation would do. The council also proposed new rules to regulate net client hunter use expansion process. He stated the recommendations are the body of the bills to be presented today.

He talked about portions of the bill to the committee.

**Proponents' Testimony:**

**Steve Roth, Private Lands Public Wildlife Council**, asked the committee to consider the council's recommendations to the Governor as well as the information on block management supporting the council's recommendations. He submitted a letter from Lee Gustafson, **EXHIBIT(fis34a01)**.

**Verle Rademacher, Private Lands Public Wildlife Council**, written testimony, **EXHIBIT(fis34a02)**.

**Darlyne Dascher, Private Lands Public Wildlife Council**, stated block management is a means to help landowners financially to some extent. She discussed the benefits of the Block Management program for the landowner, hunters and the FWP. She stated the current program is being overwhelmed with many landowners wanting to enroll. She said hunters are putting too much pressure on the resource in areas in Montana. She believes resident hunters should help pay for the program since 56% of resident deer hunters use block management. She said 33% of the elk hunters, 23% of antelope hunters and 15% of the Upland Game Bird residents use block management.

**Dave Cole, Private Lands Public Wildlife Council**, written testimony, **EXHIBIT(fis34a03)**.

**Pat Graham, Fish Wildlife and Parks**, provided written testimony, **EXHIBIT(fis34a04)** and a packet, **EXHIBIT(fis34a05)**.

**Jean Johnson, MT Outfitters and Guides Association**, stated the resident fees will bring a sense of ownership in the program. She said the more landowners there are in block management, the more alternatives there are for them to lease to outfitters and that is the purpose of the program. She stated they support the moratorium. Their concern is the election process.

**John Bloomquist, MT Stockgrowers' Association**, believes the PL/PW did an excellent job with the block management program which they are supportive of. He hopes the FWP Department is clear when they issue the access habitat license so there aren't any false expectations that may go with the issuance of a license. He said there are a couple of proposals for the funding of block management regarding limiting or eliminating nonresident hunting licenses. He stated when they eliminate nonresident licenses, they are also eliminating funding for other types of programs as well.

**David Dittloff, MT Wildlife Federation**, submitted written testimony, **EXHIBIT(fis34a06)** and proposed amendments **EXHIBIT(fis34a07)**.

#### **Opponents' Testimony:**

**Page Dringman, Attorney from Big Timber**, stated this bill is a good bill in many respects and it increases the amount of money available for block management. She opposes the bill because it limits landowner sponsors. She explained how the legislation was brought about in 1995 and her involvement with the legislation. She explained that the moratorium is now being extended but landowner sponsorships are being dropped to ten. The purpose of

the agreement was that once the outfitter's moratorium was lifted, then landowners could either live with ten or they could get a license.

She talked about the restrictions landowners have when getting a license. She stated the landowner sponsor program doesn't take into account if a landowner owns one section of land that they can put in as many landowner sponsors as someone with ten thousand acres. It doesn't take into consideration the quality of the hunt or the number of game that the land might be feeding. She feels the intent of this bill is to force landowner sponsors to either participating in block management or leasing their land to an outfitter. She referred to a letter from a resident of Reedpoint. She commented on a letter she wrote to the Director of Fish Wildlife and Parks which she received no response.

**Tony Carroccia, Rancher**, written testimony, **EXHIBIT(fis34a08)**.

**{Tape : 1; Side : B; Approx. Time Counter : 0}**

**Questions from Committee Members and Responses:**

**{Tape : 1; Side : B; Approx. Time Counter : 2.5}**

**SENATOR SWYSGOOD** asked if she would support the bill if it gets 20 licenses. **Page Dringman** responded yes she would support it.

**SENATOR SWYSGOOD** asked what is the deal. **Verle Rademacher** responded that he does not believe Mrs. Dringman made a deal with Representative Swanson because they made it clear when the bill came up for reauthorization that this number would drop from 20 to 10, so they could have more licenses going out to a larger group of landowners. **SENATOR SWYSGOOD** asked what about the statement from Tony Carroccia that the smaller person, by limiting the numbers, is being forced out. **Verle Rademacher** replied that when they first worked on the original HB 195, they had a list of landowners who had obtained these special B11 licenses. He gave an example of a landowner who had 80 licenses. He stated they are looking to be as broad and as fair to all the landowners in being able to get these licenses. **SENATOR SWYSGOOD** asked if it going to destroy the program if they gave back twenty. **Verle Rademacher** stated it would not destroy the program but it is the landowners who wanted to get some of these licenses, and they are not going to be able to.

**SENATOR BECK** asked if the Wildlife Federation would be opposed of this bill if their amendments didn't get on the bill. **David Dittloff** replied certainly not. They feel everything included in the bill is a positive step in the right direction. They are

proffered more for additions. They support the bill as it stands. They feel it could be made better. **SENATOR BECK** stated there are other extenuating circumstances besides the hunters. One of the policies in his district is that there are many fox, coyote and wolf which have almost exterminated the pheasant growth in the Deer Lodge area.

**SENATOR DOHERTY** asked if Steve Roth could explain why the Public Lands Council came up with the idea of dropping the number from 20 to 10. **Mr. Roth** stated the council members are from all areas, sportsmen, outfitters and landowners. Each member had no personal gain or agenda in the development of this consensus therefore they thought it was in the best interest to lower from 20 to 10 the number of landowner sponsors.

**SENATOR DOHERTY** asked how many people will be affected if the number is dropped from 20 to 10. **Pat Graham** responded 72 people would be affected.

**SENATOR BISHOP** asked would this effect the \$64 sportsman's license. **Mr. Graham** replied the way it is proposed now it would not affect it. The sportsman's license does include a bird license. The price on the sportsman's license was not adjusted as a result of this. If someone is buying a sportsman's license, it would become a good deal.

**SENATOR BISHOP** asked how does a landowner justify selling something that you don't own. **Page Dringman** replied they are selling the trespass right not the animal.

**SENATOR DOHERTY** asked if the statement "program funded by nonresident clients of hunting outfitters" will be taken off the block management signs. **Pat Graham** responded that the signs will be revised.

**SENATOR TAYLOR** stated he has a landowner sponsor number and he was wondering how to get one because he knows of people who have been denied. **Pat Graham** replied in 1998, there were 2,757 hunters that were sponsored for 2,000 licenses which means 757 hunters were not successful. The idea of putting a cap on it and then lowering it was to increase the probability of every landowner having higher odds of getting somebody selected if they didn't want to put in 10 or 15 permits to get 4 or 5 people getting selected.

**SENATOR TAYLOR** asked Mr. Carroccia how many permits does he normally get. **Tony Carroccia** replied somewhere between 14 and 17.

**SENATOR SWYSGOOD** asked why Page Dringman didn't get a response to the letter she wrote to the FWP Department. **Pat Graham** replied he would have to go back to the department to find out. State law prohibits the department to give out a list like the one Mrs. Dringman requested. She could come to the department and get the list.

**SENATOR BECK** referred to a lawsuit in Wyoming of a man who constructed a fence to block off game from getting on his property. He was later sued and forced to take the fence down. He asked how does the department balance the system between the private landowner and the public lands. **Pat Graham** responded the game is held in trust for all the people of the state of Montana regardless whether it occurs on private or public land. **SENATOR BECK** stated he participates in the program and thinks it is a great program.

*{Tape : 1; Side : B; Approx. Time Counter : 18.5}*

Closing by Sponsor:

**SENATOR KEN MESAROS, SD 25, CASCADE**, said the disagreements could be worked out. The program is very popular and has outgrown the budget demands and in order to accommodate the ones who want to enroll, they need to find more funding. The key elements to make the program work are communication, coordination, and cooperation.

HEARING ON SB 334, SB335, SB 336, SB 337

Sponsor: **SENATOR KEN MESAROS, SD 25, CASCADE**

Proponents: Verle Rademacher, PL/PW Council  
Rita Orr, MT Board of Outfitters  
Dave Cole, PL/PW Council  
John Wilkenson, Rancher  
Jean Johnson, MT Outfitters and Guides Association  
Paul Roos, Outfitter  
Kelly Flynn, Rancher  
Robin Cunningham, Fishing Outfitters Assoc. of MT  
David Dittloff, MT Wildlife Federation  
Mike Simpson, Outfitter  
Stan Fraiser, Citizen  
Pat Graham, FWP  
Jack Rich, MT Outfitters & Guides

Opponents: **Frank Thompson, Rancher**

**Howard Bethal, Fishing Outfitters**  
**Bridget Erickson, Outfitter**  
**Allen Schallenger, Citizen**

**Opening Statement by Sponsor:**

**SENATOR KEN MESAROS, SD 25, CASCADE** recommended the committee to hear SB 334 as the main bill for discussion purposes along with SB 335, SB 336 and SB 337. He stated SB 334 is recommended by the Private Lands Public Wildlife Council and it has not had the opportunity for public review. There are some concerns with the outfitting industry. He explained portions of the bill.

***{Tape : 1; Side : B; Approx. Time Counter : 25.5}***

**Proponents' Testimony:**

**Verle Rademacher, Private Lands Public Wildlife Council**, written testimony, **EXHIBIT(fis34a09)**.

**Rita Orr, MT Board of Outfitters**, written testimony, **EXHIBIT(fis34a10)**.

**Dave Cole, Private Lands Public Wildlife Council**, written testimony, **EXHIBIT(fis34a11)**.

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**John Wilkenson, Rancher**, stated he was on the original PL/PW subcommittee from Miles City. The main point of this bill is that it puts the burden of proof on the outfitter whether it is an existing outfitter or a new outfitter. Before, the board had to grant the expansion unless they could prove the outfitter was in violation. He referred to the bill where it explains this situation. He stated the bill address the Net Client Hunter Use. He discussed how to get more hunters to a Net Client Hunter Use. He discussed the provisions for the new outfitter and to slow the influx of the nonresident outfitter. He stated most of the bill effects the existing outfitter that wants to expand or the new outfitter.

**Jean Johnson, MT Outfitters and Guides Association**, said they are talking about people's business not their hobby or their sport. The association understands the public has a problem and a lot of the problem was fuel by information that the association believes was inaccurate. She stated the association supports the bill but had a number of amendments to propose. She said the bill states unless there is a preponderant of evidence supporting the

request, it is gone. She said the association doesn't agree with FWP sharing in fees that are not supported by an equal action on their part.

**Paul Roos, Outfitter**, stated SB 334 comes from a group that should exist and he hopes to continue to exist. He discussed the construction and changes of the board. He stated he is in favor of an effort to turn around and put it on the outfitter who wants to expand.

**Kelly Flynn, Rancher**, written testimony, **EXHIBIT(fis34a12)**.

**Robin Cunningham, Fishing Outfitters Association of MT**, written testimony, **EXHIBIT(fis34a13)**.

**David Dittloff, MT Wildlife Federation**, written testimony, **EXHIBIT(fis34a14)** and proposed amendments, **EXHIBIT(fis34a15)**.

**Mike Simpson, Outfitter**, stated he conducted a study which showed outfitters are leasing less land. He discussed the results of the study.

**Stan Fraiser, Citizen**, stated in his observation the hunting outfitters are interested in having no regulations and no controls. They are only interested in what is going to put money in their pockets. He believes the public has not been well represented on the Board.

**Pat Graham, FWP**, stated the department supports the recommendations of the Private Lands Public Wildlife Advisory Council. He said the increase of record keeping has contributed to the debate because of the inaccuracy and lack of information.

**Jack Rich, Montana Outfitters and Guides Association**, stated they support the bill but not without their amendments. He said the issue of the majority of outfitters on the Board is a drop dead issue.

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**Opponents' Testimony:**

**Frank Thompson, Rancher**, stated the outfitting business is a good clean issue. He said if they pass this bill they next will try to regulate the private landowner. He is against SB 334.

**Howard Bethal, Fishing Outfitters and Guides Association of MT**, written testimony, **EXHIBIT(fis34a16)**.



**Bridget Erickson, Outfitter**, stated the financial deterrence in terms of expansion. The deterrence will not deter large corporate outfitters. She discussed the move of outfitters in the future. She stated if the committee wants to control the lateral expansion of the industry they need to aim some effort towards out of state corporations or large corporate outfitters who are sponsoring 100 to 200 clients. She said outfitters do not own the land, landowners do. She stated that the Board make-up is not the problem, the standard they were given was the problem. She said there needs to be something done about net client hunting use.

**Allen Schallenberger, Citizen**, written letter, **EXHIBIT(fis34a17)**.

*{Tape : 2; Side : A; Approx. Time Counter : 41.1}*

Questions from Committee Members and Responses: None.

Closing by Sponsor:

**SENATOR KEN MESAROS, SD 25, CASCADE** stated this is a difficult issue but must be addressed in this legislature. He discussed the problems opponents had on SB 334 and hope they can meet to discuss solutions.

**ADJOURNMENT**

Adjournment: 5:30 P.M.

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SEN. KEN MESAROS, Chairman

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ADRIENNE PILLATZKE, Secretary

KM/AP

**EXHIBIT (fis34aad)**